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BEFORE THE STATE ENGINEER OF THE STATE OF UTAH.

TWIN CREEK IRRIGATION COMPNAY,

A CORPORATION,

PLAINTIFF,

VS.

ANSWER TO PETITION FOR  
APPOINTMENT OF COMMISSIONER.

MOUNTAIN TUNNEL IRRIGATION  
COMPANY, A CORPORATION,

DEFENDANT.

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To the State Engineer of the State of Utah:

Now comes the Mountain Tunnel Irrigation Company, a Corporation of Mount Pleasant, Sanpete County, Utah, and answers the petition of the Twin Creek Irrigation Company heretofore filed;

1. Admits paragraphs one (1), two (2), three (3) and four (4) of said petition.

2. Denies each and every allegation contained in paragraph five (5) of said petition.

3. Answering paragraph six (6) of said petition the said defendant alleges that it has no knowledge or information as to the statements contained in said paragraph six and therefore denies the same.

4. Admits paragraphs seven (7), eight (8) and nine (9) of said petition.

5. Admits subdivision one of paragraph ten, but denies subdivision two of said paragraph and alleges that said ditch is timbered, and is covered with timber for about one and one half miles beginning at the top of the mountain, and the balance of said ditch is made of earth and substantial rock.

6. Denies paragraph eleven of said petition and alleges that the weirs are made of substantial lumber and are of the latest and approved design and of modern construction.

7. Admits paragraph twelve of said petition.

8. Denies the allegations contained in paragraph thirteen of said petition except that it admits that the plaintiffs rights to 23 and 33/70 second feet of water in Twin Creek are superior and paramount to any claim or right to any of the waters of the said Twin Creek of the said Mountain Tunnel Irrigation Company.

9. Denies the allegations contained in paragraph fourteen of said petition.

10. Answering paragraph fifteen the said defendant alleges that it is not necessary for said commissioner to instal substantial accurate and reliable measuring devices for the reason that the same are now and have been for many years last past substantial, accurate and reliable, and said defendant further denies that said



petitioner has been damaged or injured or lost any water by reason of any acts upon the part of the said defendant, its agents or servants, at any time or at all, and denies each and every other allegation contained in said paragraph fifteen.

11. Answering paragraph sixteen of said petition defendant alleges that the methods for collecting said waters are substantial, secure and reliable, and that said defendant receives only what water it is legally entitled to, and has caused no damage loss, or injury to the said Twin Creek Irrigation Company or other owners of waters on said stream, and that the defendant is not in default or has not infringed upon any of the rights of the Twin Creek Irrigation Company or others in any of its rights to its said waters, and in view of the fact that the said Twin Creek Irrigation Company has petitioned the State Engineer for the appointment of a Commissioner without just cause or excuse and without loss, damage or injury to the said Twin Creek Irrigation Company, the latter company should pay the expense and compensation of a commissioner to regulate, control, measure and distribute said water if such action is taken.

WHEREFORE, the said Mountain Tunnel Irrigation Company prays that no commissioner be appointed to regulate, control, measure and distribute said waters for the reason that it is unnecessary and will cause said Mountain Tunnel Irrigation, great ~~cost~~ and expense without just cause.

Mountain Tunnel Irrigation Company,

By John K. Madsen  
Defendant.

President.

C. W. Burquest  
Attorney for Defendant.

State of Utah, .  
County of Sanpete. . ss.  
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John K. Madsen, being first duly sworn upon oath deposes and says; that he is the president of the Mountain Tunnel Irrigation Company, a Corporation, the defendant above named that he has read the foregoing answer and knows the contents thereof and that the same is true of his own knowledge except matters therein stated upon information and belief and to those matters he believes to be true.

Subscribed and sworn to before me this 3th. day of April, A.D. 1920.

My commission expires  
January 22nd. 1921.

John K. Madsen  
C. W. Burquest  
Notary Public.